

requester's estate under applicable State law.

### Subpart H—Secretarial Determinations

SOURCE: 68 FR 70096, Dec. 16, 2003, unless otherwise noted.

#### § 102.70 Determinations the Secretary must make before benefits can be paid.

(a) Before reviewing a Request Package, the Secretary will assign a Program number to the Request Package and so inform the requester (or his or her representative) in writing. All correspondence to the requester (or his or her representative) about a specific Request Package will be referenced by this Program number.

(b) Before the Secretary will pay benefits under this Program, he must determine that:

(1) The requester or his or her representative submitted a completed (to the fullest extent possible) and signed Request Form within the governing filing deadline;

(2) The requester meets the eligibility requirements set out in this part (including a determination that a covered injury was sustained); and

(3) The requester is entitled to receive benefits from the Program. In making this determination, the Secretary will decide the type(s) and amounts of benefits that will be paid to the requester.

(c) Once the Secretary has sufficient documentation to make an eligibility or benefits determination, he will make the decision in a timely manner.

#### § 102.71 Insufficient documentation for eligibility and benefits determinations.

In the event that there is insufficient documentation in the Request Package for the Secretary to make the applicable determinations under this part, the Secretary will notify the requester, or his or her representative. The requester will be given 60 calendar days from the date of the Secretary's notification to submit the required documentation. If the requester is unable to provide the additional documentation, he or she may write to the Secretary

and explain the reason that the requested documentation is unavailable and the efforts the requester has taken to obtain the documents. The Secretary may accept such a letter in place of the required documentation or disapprove the request due to insufficient documentation. If no documentation is submitted in response to the Secretary's letter, the Secretary may disapprove the request. The Secretary also may require an authorization from the requester (or his or her representative) to try to obtain required documentation on his or her behalf.

#### § 102.72 Sufficient documentation for eligibility and benefits determinations.

(a) *Eligibility determinations.* When the Secretary determines that there is sufficient documentation in the Request Package to conduct an evaluation of a requester's eligibility, he will begin the review to determine whether the requester is eligible. If the Secretary determines that the requester is not eligible, the Secretary will inform the requester (or his or her representative) in writing of the disapproval and the options available to the requester, including reconsideration.

(b) *Benefits determinations.* If the Secretary determines that the requester is eligible for benefits, he will, after receiving documentation from the requester for a benefits determination, either calculate the amount and types of benefits, as described in subpart I of this part, or request additional documentation in order to calculate the benefits that can be paid (e.g., an Explanation of Benefits from the requester's insurance company if none was provided).

(c) *Additional documentation required.* At any time after a Request Form has been filed, the Secretary may direct a requester to supplement or amend the Request Package by providing additional information or documentation.

#### § 102.73 Approval of benefits.

When the Secretary has determined that benefits will be paid to a requester and has calculated the type and amount of such benefits, he will notify the requester (or his or her representative) in writing. The Secretary will